

**The Practice of Talossan Law**  
**Guidelines for Preparing Your**  
**Case for the Uppermost Cort**

**Second Edition**

**Justice T.M. Asmourescu**

## Introduction

The Kingdom of Talossa, like all civilized nations, is based upon a system of laws designed to protect the rights of its citizens. Within this body of law exist a system of checks and balances designed to prevent the concentration of power within a single branch of government.

The purpose of this book is not to establish judicial precedent. Rather, it is intended as a guide for those intending to practice law or represent themselves in matters before the Talossan Courts.

As such, the focus of this book will be on the practices and procedures of bringing a case before the courts. We will avoid any interpretations of law beyond those clearly established through legislation or judicial precedent.



This book expresses the opinions of a current Talossan Uppermost Cort Justice. While these opinions may be qualified by virtue of my office, they should not be interpreted as the official policy of the court system. The guidelines set forth are designed in an attempt to standardize the practice of law before Talossan courts to better enable to preparation of attorneys in the realm.

Besides, I can always write more editions.

Justice T.M. Asmourescu, Admiral  
MRT

## **Section 1: Understanding Talossan Law**

Newcomers to the Kingdom undoubtedly see the separate legal codes within the Kingdom. When preparing for court, an individual must be aware of the sources of law and how to apply them.

### **The Organic Law**

The Organic Law (OrgLaw) is can be thought of as Talossa's constitution. It guarantees rights (covenants) and establishes distinct roles for the government. It establishes a role for the King (or other reigning Monarch) and limits his authority to prevent abuses of power. The Organic Law forms a broad umbrella under which all further law is developed. While the OrgLaw can be amended, such a move requires a referendum of Talossa's citizens to approve such a measure.

## **Statutory Law**

The statutory law is designed to fill in the legal gaps. It can clarify, expand, elaborate upon, or define portions of the OrgLaw, but it cannot lawfully conflict with the OrgLaw. Statutory laws are the most common sort of law passed by the Ziu. Unlike the Organic Law, Statutory laws can be repealed by the Ziu without the need for a Kingdom-wide referendum.

## **Prime Dictates**

Prime Dictates, like the rest of statutory law, can be repealed by the Ziu. These proclamations carry the force of law upon being signed by the Seneschal and the King. They cannot conflict with Organic Law but may, like regular statutory laws, expand, clarify, elaborate upon or define portions of the law (organic or statutory).

## **Judicial Precedent**

While written laws are important, there exists another pool from which the Justices may draw. If a case is heard before a court of the realm and the court is called upon to clarify an ambiguity in the law, that sets a precedent.

So, for example, let's say there is a law which states:

"If a man strikes another man, he shall be punished by revocation of citizenship."

The law contains an obvious ambiguity. It isn't clear whether "he who shall be punished" refers to the person striking or the person being struck. If this case went to court and someone tried to argue that the punishment applies to the man struck (rather than the man striking), it would be up to the Court to clarify that ambiguity by determining how the law should be applied.

The Justices may determine:

1. The law itself is inorganic and cannot be enforced
2. The law itself conflicts with previously established statutory law and thus cannot be enforced.
3. The man who strikes the other is the one subject to punishment.
4. The man being struck is the one subject to punishment.

If the Justices make the third determination, then, going forward, filing charges against the striker in a similar circumstance would be reasonable given the precedent set.

Even if a judicial ruling is overturned on appeal, portions of the ruling which were upheld may still provide valid fodder for your argument.

We will elaborate on all of these bodies of law in later chapters.

When preparing a brief for court,  
it is imperative that you provide  
a legal basis for your argument.  
You may draw upon the Organic Law,  
the statutory law (including prime  
dictates) and judicial precedent.



## **Legal Representation**

With the passage of the Legal Representation Act (I & II), the practice of law was officially restricted to lawyers admitted to the Royal Talossan Bar. The act(s) further clarify that this in no way impedes the right of an individual to represent themselves in court.

Because of a shortage of lawyers (not necessarily a bad thing) at the time of this writing, the provision to allow representation waivers was also codified in these acts.

A person should first attempt to retain the services of a reputable Talossan attorney. Should one not be available, they may request a waiver from the case Justice/Judge/Magistrate to allow any citizen to represent them in the matter before the court.

To maintain appropriate barriers to entry into the legal profession, the waiver does not allow the representative to advertise or solicit business or collect a fee for their representational duties.

The procedure for applying for such a waiver is simple.

1. Once the case is assigned to a Judge/Justice/Magistrate , file a motion requesting a waiver for a non-attorney to represent you in the matter before the court.
2. This waiver shall remain valid until you dismiss the representative, the court deems the representative unworthy and revokes the waiver or all judicial actions and appeals have been exhausted for that action.

## **Section II: Logic and Arguments**

Without delving too deeply into the pool of logic, let's look at the basic structure of an argument and discuss what makes an argument valid. This will assist you as you prepare briefs and other filings before the courts.

What is an argument?

An argument is statement designed to convince someone of something using a structured reason. It isn't enough that I say "Pudding is good." That would simply be the expression of a subjective opinion which anyone can either accept or reject.

To logically structure my argument that you should eat pudding, I might make it look like this:

Premise 1: You like  
chocolate.

Premise 2: You like custard.

Premise 3: Pudding is  
chocolate custard.

Conclusion: You like pudding.

This is kind of a silly argument. It is STILL based on a subjective opinion. But, it shows how a structured argument differs from simply expressing an opinion in an attempt to sway a person's opinion. This argument is structured in the form of a syllogism. A syllogism is an argument where the conclusion is inferred from two or more premises. Here's another syllogism to consider:

Premise 1: All police  
officers are good.

Premise 2: Joe is a police  
officer.

Conclusion: Joe is good.

This argument is valid because, if we accept the premises as true, the conclusion logically follows.

If ALL police officers are good, and Joe is a police officer, then Joe, in all possible worlds, must be good. For the purposes of validity, we do not consider the truth value of the premises. We assume them to be true for the purposes of the argument. What we are looking for at this stage, is that the argument is structured in a valid form. That is, with the information provided in the premises, the conclusion is necessarily true. Let's look at an invalid argument:

Premise 1: All police officers are good.

Premise 2: Joe is a police officer.

Conclusion: Joe is tall.

While it may be true that Joe is tall, we cannot make that inference from the information provided in the premises. Even if we accept both premises as factually true, the conclusion does not logically follow.

Let's try a few more:

Premise 1: All men are  
mortals.

Premise 2: Some of the Irish  
are men.

Conclusion: All Irish men are  
mortals.

Within logic, the word "some"  
means "at least one." So, if all  
men are mortals and there is at  
least one Irish man, it would  
stand to reason that the Irish man  
is a mortal.

Premise 1: No singers are  
lonely.

Premise 2: Martha is a  
singer.

Conclusion: Martha is not  
lonely.

In logic, "no" or "none" means  
just that. If no singers are

lonely, then there exists not a single singer who is lonely. Since Martha is a singer, if we accept both premises as true, Martha cannot be lonely in any possible world.

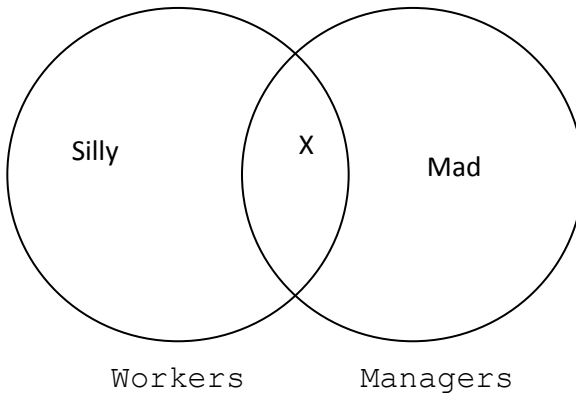
I know exactly what you're thinking. Wouldn't it be neat if there was a way to diagram a syllogism? Fortunately for you, there is! We can (and should!) use a Venn diagram to help us visualize arguments. Let's try one out.

Premise 1: All workers are silly.

Premise 2: All managers are mad.

Premise 3: Some workers are also managers.

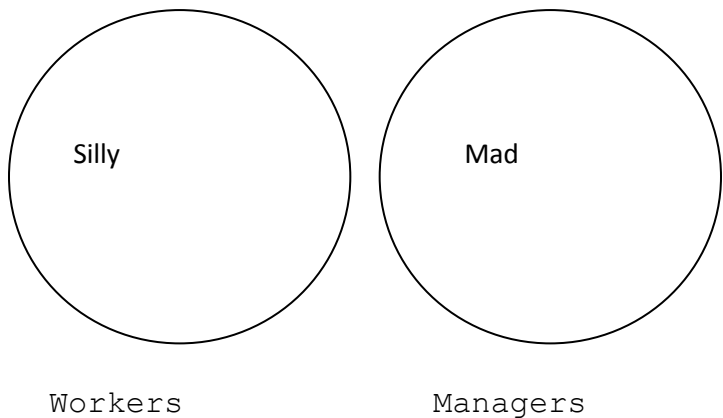
Conclusion: Some people are both mad and silly.



I told you all of your diagram needs would be fulfilled. Now, we look at Premise 1 and see that "all workers are silly." So, the left circle will represent workers. We know that anyone designated a worker is silly.



Likewise, we know that anyone designated a manager is mad. If that was all that we knew, then the diagram would look like this:



The diagram would look different because, without the third premise, there is no established relationship between managers and workers. However, the third premise indicates that some people are both workers and managers. So, the circles overlap and an "X" is placed in the overlapping portion to indicate that there is at least one person in this area.

It is worth noting at this point that there are different logical systems. These diagrams are based upon Aristotelian logic (like you would find in a philosophy class). If you've ever taken a mathematical logic course, your diagrams would be based upon Boolean logic. So, rather than disconnecting the circles, you may have been taught simply to shade or black out the overlapping portion. Either is correct. But since philosophy was around before math (and I majored in Philosophy), this is my preferred method of diagramming.

## **Soundness**

Now that we have established how validity works, let's look at soundness. It (hopefully) may have occurred to you that, up to this point, my valid arguments were based on some pretty silly notions. We know that not all police officers are good. We have been focused on the structure of

the argument, but not the veracity of the argument's substance. So, once we establish that an argument is valid, we must check to see if the argument is also sound.

The soundness of an argument is determined by evaluating the truth value of the premises. A valid argument may or may not be sound. But all sound arguments must be valid.

Example (truth value indicated in parenthesis):

Premise 1: All cowboys eat chicken. (F)

Premise 2: Bruce is a cowboy. (T)

Conclusion: Bruce eats chicken. (T)

The argument is definitely valid. If we accept the first two premises as true, there is no way that the conclusion can be false. However, it isn't true that ALL

cowboys eat chicken. Because the truth value of the first premise is false, the argument is not sound.

Premise 1: All soldiers go to boot camp (T)

Premise 2: Aaron is a soldier. (T)

Conclusion: Aaron went to boot camp. (T)

In this example, we know that all (US at least) soldiers go to boot camp. We know that Aaron is a soldier. Therefore, the conclusion logically follows that Aaron also went to boot camp. The argument is valid as the conclusion follows logically from the premises. The argument is sound because the truth value of both premises and the conclusion is "true."

Premise 1: All of the persons  
living in Building 1 are men.  
(T)

Premise 2: Some of the  
persons in Building 1 are  
criminals (T)

Premise 3: Tim lives in  
Building 1 (T)

Conclusion: Tim is a  
criminal. (F)

This argument is not sound because  
it is invalid. The only logical  
conclusion we would be able to  
draw from the premises is that  
"Tim is a man." Tim being a  
criminal simply because he lives  
in a building where at least one  
man is a criminal does not  
logically follow. Because the  
argument is invalid, it cannot be  
sound.

## **Logical Fallacies**

So as long as your premises are true and your conclusion logically follows, you can't lose, right?

Sorry, it isn't that easy. When formulating your arguments, you also need to ensure you avoid logical fallacies. Make no mistake, fallacies are logical errors and leave your argument vulnerable to attack. There are a lot of fallacies; we will cover the most common ones.

1. Argument from ignorance (argumentum ad ignorantiam)- this fallacy relies on determining the truth value of an argument based upon the inability to prove the opposite.

Example: "I have seen pink flamingoes. No one has ever proven flamingoes can be green. Therefore, there is no

such thing as a green  
flamingo."

Here, the argument relies on the fact that no one has ever proved the existence of a green flamingo. The speaker argues that a flamingo doesn't exist and cites as proof the fact that there is no evidence to the contrary.

2. Correlation does not imply causation (cum hoc ergo propter hoc) - this fallacy involves believing that the correlation between two events implies that one caused the other.

Example: The ground is wet when it rains. Therefore, the ground being wet causes rain.

Example: Overweight people drink beer. Therefore, being overweight causes people to drink beer.

3. Begging the question (*petito principii*) - this fallacy involves using a premise which is a rephrased form of the conclusion.

Example: I think he is fat because he is obese.

*Petito principia* is close to *circulus in probando* (circular reasoning). They are similar in that they both result in the premise not providing enough information for us to validly make a conclusion.



### **Section III: Civil Actions**

Talossan Civil Law provides citizens a means to remedy a legal injury brought upon them by another party. Because Talossans are generally not a litigious people and don't go around suing one another, let's look at an example:

Party X is given 30 Cosa seats following the General Election. By their calculations, however, they are entitled to 33 Cosa seats. They bring their dispute to the Secretary of State who declines to review the matter with them, will not accept their calculations, and holds firm that 30 is the correct number of seats to be awarded.

Party X is seeking remedy for an injury caused by the Secretary of

State. Specifically, they want their three seats. Bringing an action before the court to seek this remedy is a civil matter.

But wait a second. What if the SoS is ALSO breaking a law in the criminal code? If criminal prosecution is sought, the petitioner must file the criminal case separately (or request the Crown to prosecute the matter).

Why not kill two birds with one stone?

Co-mingling these cases would not be fair to the accuser or the accused. It is possible that the SoS made a simple mathematical error. If that is the case, it will be revealed during the civil trial when both sides reveal their methods for calculation as well as their basis in law for using said calculation. The remedy will either be to grant Part X their three seats or to deny their petition (if the court sides with the SoS).

For the criminal trial, the prosecution bears the burden of proving that the SoS acted against a criminal statute with the intent of committing a crime. This sort of accusation, as well as the necessary defense, should not be bound together with the civil matter before the court. So the SoS would have to argue that he didn't make a mistake and that, even if he did, it was unintentional. This unfairly impacts his/her ability to mount an adequate defense. Besides, information that is relevant to the civil case may not be relevant in the criminal case. Putting all of that information together may also result in irrelevant, prejudicial information being thrown out in the open and used in the Justice/Judge/Magistrate's decision.

For the accuser, this means that, within the body of a single brief, they must lay out an accusation of error and an accusation of criminal intent. Again, that's a

lot of information for one filing. Because the burden of proof is on the accuser, that could mean the difference between receiving the sought remedy and losing the case altogether.

So who can bring a civil suit?

Anyone who has suffered injury as a result of the alleged act of negligence, omission, incompetence or intentional acts can seek judicial remedy. This means that you must have been a party to the act and suffered as a consequence of the act.

Let's use another example:

Senator X and Senator Y jointly file suit on behalf of their friend MC R. MC R's bill was not clarked due to an error on the part of the Secretary of State. Upon the case being assigned to Magistrate P, the case is dismissed.

The case would be dismissed because Senator X and Senator Y were not party to the case. The only person who can reasonably file suit against the SoS for this matter is MC R. Now, MC R may hire a Talossan attorney to represent him before the court, but that does not change the fact that MC R is the one bringing the action.

This filing also contains an issue in that no reasonable judicial remedy can be provided. If the SoS fails to clark a bill, it is generally expected it will be clarked the following month. While the court can order the SoS to clark the bill, the SoS may have agreed to do this without any intervention from the court. One should always seek to resolve matters outside of court before bringing action against another party.

## **What Sort of Relief Can I Seek in a Civil Action?**

There are a number of legal remedies available to a petitioner, they include:

1. An Injunction - This is a court order compelling a party to carry out or to cease carrying out, a specified act.
2. Specific Performance - This is a court order which requires one party to perform a contract.
3. Declaratory Judgment/Relief - This is a legal determination on a matter of law. No one is compelled to do anything as a result. This remedy may be sought to clarify an ambiguous law to ensure organic application.

Let's review each one.

### Injunction

Let's say Martha has someone entering her property unlawfully. She may seek an injunction barring that certain someone from entering her property. Violation the injunction may result in the offender being held in contempt of court.

### Specific Performance

Martha is the treasurer of her political party and maintains an online PayPal account for the party to collect dues. She promises that, upon leaving office, she will transfer the account to her replacement. She resigns a year later and never transfers ownership of the account. A specific performance can compel her to transfer ownership (not merely provide username and passwords) to the new treasurer.

## Declaratory Judgement/Relief

Statute Z allows for the appointment of a Provincial Dog Catcher by the Premier. The statute also states that the dog catcher must meet eligibility requirements set forth in Statute U. However, statute U was repealed. Martha, as the Provincial Premier, wants to appoint herself. This act would have been prohibited under Statute U, but with its repeal, she feels she can proceed. Prior to doing anything, she files a motion before the Magistracy to provide a declaratory judgment on the status of the law and the application of the requirements set forth in Statute U. Now, Martha can proceed with her appointment having resolved the potential conflict before-hand.



## **Civil Briefs**

In filing a brief with the court for a civil matter, there are a few areas that one may wish to focus on to avoid technical errors:

1. Jurisdiction
2. Standing
3. Remedy
4. Overreaching

### **Jurisdiction**

A key question to ask oneself is, "does the court have jurisdiction to provide remedy for this situation?"

Example:

There have been murmurs that S:reu Lorenzo will receive a lifetime peerage as a Baron. When the next honours list is

released, S:reu Lorenzo is not granted a peerage. So, he files action against the Crown before the Uppermost Court.

This case would be dismissed on jurisdictional grounds. The law clearly leaves the grant of peerages and knighthoods to the King's discretion. Even if the King promises a peerage but later recants, the court has no legal pathway to compel the King to grant a peerage. Holding no jurisdiction, the Court has no choice but to dismiss.

### Standing

Another key question is whether you have standing to present the case. As we saw earlier in the example about MC R and his misclarked bill, one must have suffered an injury as a result of the alleged act. But what about situations where not just one person is affected? What if a

mistake affects the entire Kingdom? What about a Province?

There are a few special circumstances that should be considered:

The Seneschal may bring action on behalf of the Kingdom in matters which affect the Kingdom. This includes any instance where a government office or ministry is accused of violating the law.

The premier of a province may bring action on behalf of the province in matters which affect the province. This includes actions against other provinces, the Kingdom, the Royal Household, private individuals or corporations who violate provincial law or the law of the Kingdom causing injury to the province.

Individuals may bring action and represent themselves in

any case to which they are party.

Individuals who head a corporation, charity or other business entity may bring action on behalf of as well as represent that entity in matters to which the entity is party.

The King may represent himself and may bring action on behalf of any of the offices of the Royal Household.

### Remedy

Next, you must consider whether the court has the requisite authority to provide the remedy you seek.

Let's revisit the issue of the promised peerage. Even if we ignore the fact that the law gives the King discretion to grant peerages and knighthoods, we are

still faced with the obstacle of a reasonable remedy. If the petitioner in the example requested:

"That the King be compelled to grant unto petitioner a peerage with the rank of Baron."

The court lacks the requisite authority to provide that remedy. Nowhere in the law is any entity granted the power to compel the King to do anything relating to peerages or knighthoods.

Let's look at another example:

Mr. F is upset that he lost the senate election and feels that his opponent, Senator U caused injury to him by running a smear campaign prior to the election. This campaign, he alleges, was libelous. Mr. F seeks judicial intervention to compel Senator U to drop his pants and stand on the street corner holding a sign which reads "I am a Jerk."

The statutory law outlines the acceptable judicial punishments, but these exist for the prosecution of criminal cases. If libel is brought as a civil action and remedy is sought, criminal penalties may not be employed. Because the remedy requested is not provided for in the law (and because it is sophomoric and silly) the court cannot grant the requested relief.

### Overreaching

It is important to remember that your civil action affects a particular circumstance involving a particular person or persons and a specified injury done to you as a result of that incident. Often, individuals will attempt to overreach with their case. As an example:

“Mr. Y failed to turn over the party’s financial accounts upon leaving office. Therefore we seek transfer of

the accounts and a prohibition against Mr. Y from holding any government office or serving as a party whip."

The purpose of a civil action is to correct an injustice and indemnify the injured.

Indemnification is not a revenge game. If you lose \$20 because of the actions of another person, the court would seek to remedy the situation by restoring that \$20 to you. The court would step outside of its own authority to order the responsible party to never be allowed to have \$20 again. The court seeks to restore petitioners to their position prior to the injury. In cases where no quantifiable loss takes place, the court's role is to ensure the law is being properly applied, clarify ambiguities in the law and protect the rights of all citizens under the law.

## **Civil Action - Additional Notes**

1. A court action must be either criminal or civil. It cannot be both simultaneously.
2. Consider jurisdiction, standing, remedy and watch out for overreaching when preparing your action.
3. Remember that you are entitled to represent yourself in any court action. You can also hire an attorney. You can also ask the judge for a waiver to allow a non-attorney citizen to represent you in accordance with applicable law.
4. All of the matters discussed here are applicable to the Kingdom's courts. Provincial courts may have different rules and procedures as each province may establish



systems of courts according  
to their constitution.

## **Section IV: Criminal** **Complaints**

The majority of criminal complaints come to court by way of the Attorney General. The AG is the Kingdom's prosecutor and defense attorney. Should the AG office be vacant (or if the AG is party to the criminal complaint) the Seneschal can file the complaint with the clerk of courts.

But what happens if the AG refuses to press charges? What if charges need to be filed against the government?

Any citizen can file a criminal complaint against another citizen or government entity.

This complaint must contain the following:

1. The name(s) of the accused
2. The specific law which was broken
3. The facts of the case

Unlike a civil action, criminal complaints should not contain a course of remedy. Even where the statutory law specifies a particular penalty (or range of penalties), this is entirely left to the discretion of the court hearing the case. The opinion of the petitioner may be sought later in the action, but sentencing recommendations have no place in an initial complaint.

When formulating a criminal complaint it is important to answer the five W's plus H.

1. Who committed the crime?
2. What crime was committed?
3. When was the crime committed?
4. Where was the crime committed? (via e-mail, on Witt, in person? Physical location if possible)
5. Why is the action of the accused severe enough to warrant criminal prosecution? (was it a breach of public trust? Was there potential

for harm to another citizen?  
Etc)

6. How was the crime committed?

In addition to this information contained in the statement, you must also include all relevant evidence. This may include e-mail logs, lawfully obtained recordings, witness statements etc.

The case should be submitted to the Clerk of Courts in its entirety. The court will only try cases where there is sufficient evidence that may result in a conviction and you only have one try to make the charges stick.

## The Rights of the Accused

### The Right to Representation

If you are accused of a crime, you have the right to represent yourself. You may also engage the services of an individual who is admitted to the Talossan Bar. If no suitable counsel can be found, then you may apply for a waiver of representation from the judge hearing your case. This waiver, once granted, allows a non-Attorney citizen to represent you before the court.

### The Right to Discovery

If the government has a case against you, that information must be presented to you to allow you to formulate a defense. Though not codified as of this writing, this has been accomplished in the past by posting briefs and evidence

directly on a designated area of Witt.

### The Right to a Speedy Trial

The Habeas Corpus Enforcement Act (40RZ4) protects the accused from government harassment. If the government wishes to bring action against a person, then they should bring it swiftly once all evidence is compiled.

The history of this Act centered on a public notice by the government against an individual that the government would be filing charges against him. Those charges never came to be, leaving the citizen in limbo. 40RZ4 clearly lays out a procedure for filing charges and notifying the accused. Failure to comply with these provisions could result in the dismissal of charges with prejudice, leaving the Crown without recourse to re-file the charges.

## The Right to Appeal

As with civil actions, an individual has the right to appeal their case up to the Uppermost Cort. Following decision (or refusal to hear) by the UC, the petitioner may then approach the crown directly seeking clemency.

As with any appeal, the grounds for appeal must be based upon a legal or technical error which, had it been avoided in the first place, may have altered the outcome of the case. Not agreeing with a verdict is not, by itself, grounds for a successful appeal.

## **Habeas Corpus**

Habeas Corpus is a legal action which literally requires that a person be brought before the court. There, legal cause must be provided to justify further detention. This is done to prevent unlawful detention.

In the context of Talossan Law, we see mention of Habeas Corpus in the Habeas Corpus Enforcement Act (40RZ4). This requires the accused be informed of charges against them within seven days following acceptance by a court. It also begins a clock of 90 days (extendable by an additional 30 days) for the Crown to prepare its case against the accused.

If the Crown fails to present a case within the allotted timeframe, then the charges are dropped with prejudice (meaning double jeopardy applies and the charges cannot be re-filed). The act does permit charges to be re-



filed in the event new evidence is discovered.

Though not specifically codified, a writ of Habeas Corpus can be requested any time a legitimate challenge to a person's detention may arise.

This prevents the government from unlawfully denying a citizen their right to a speedy trial and keeping a person encumbered by pending prosecution for an indefinite period of time.

While mention of a writ of Habeas Corpus exists in the Organic Law, it is not expounded upon anywhere but 40RZ4, where it is again notoriously vague.

Here, we must turn to the Criminal Code of the State of Wisconsin, which is adopted as a criminal code for the Kingdom of Talossa, in particular Section 782.45(2). This brief mention of habeas corpus affirms the usage of the term to mean a court order

bringing a person before the court.

In many ways, a writ of habeas corpus is similar to a subpoena. However, a subpoena commands an individual to appear. A writ of habeas corpus, however, orders an institution to cause an individual to appear. So, for example, such a writ would force a prison, or law enforcement agency, to present an individual for a hearing where the court could rule on the legality of the individual's detention.

Within the Talossan system, Habeas Corpus is a judicial remedy for the government dragging its feet in the course of a prosecution. In theory, the same principle could be used by a suspended citizen to cause a hearing on the legality of their suspension or revocation of citizenship. To date, this remedy has not been sought for this purpose. We hope it never does (but at the same time, we kind of hope it does.)

## **Miscellaneous Filings**

### Amicus Curiae

Amicus Curiae (literally, "Friend of the Court") is a person who provides information to assist a court in rendering a decision. This individual cannot be a party to the case. The amicus curiae will most commonly come in the form of an "amicus brief" filed with the Clerk of Courts. This brief contains the legal opinion of the petitioner. Whether the court considers the brief is left to the sole discretion of the court.

The Amicus Curiae should offer impartial counsel based on principles of law. The amicus brief is not a filing of personal opinion, but a well-reasoned legal argument offered for the benefit of the court in weighing the matters before it.

Amicus briefs are submitted to the Clerk of Courts and presented to the Magistrate or Justice. The court has the option to ignore, consider or utilize the opinion of the amicus brief in forming their judgment. A court cannot be compelled to hear or consider an amicus brief.

## **The Appeals Process**

All rulings by provincial courts and inferior courts of the Kingdom (any court below the Uppermost Cort) are appealable to the Uppermost Cort.

But what does it mean to appeal a ruling?

Far too often, people disagree with the actions of the lower court and thus file an appeal. These appeals are often less than a sentence long and look something like.

"I wish to appeal this ruling to the Uppermost Cort."

Here's the problem. When a case falls to the Uppermost Cort because there is no eligible inferior court, then they UC is prepared to hear a case from start to finish. When a case has been ruled on, an appeal is you requesting an UC review because

you feel the lower court has erred in its judgment.

A court does not err in judgment merely by disagreeing with you. In filing an appeal, you need to file a brief which outlines any technical errors in the lower court's ruling. For example, you may find that the lower court did not hear arguments in a timely manner. You may feel that the judge or magistrate ruled against one of your motions, despite the fact that they were required by law to rule favorably in that case. Whatever the circumstances, you need to write it down and explain to the Uppermost Court why you are appealing the ruling.

Some acceptable reasons to file for appeal include:

Technical errors on the part of the lower court

Prosecutorial or Judicial Misconduct

Proposed alternate  
interpretations of law which  
differ from those of the  
ruling judge (your  
interpretation must be based  
on law, not merely opinion.)

Perjury

New or recently discovered  
exculpatory evidence

Technical errors may result in the  
Uppermost Court overturning a prior  
conviction or ordering a new trial  
to be held. The Uppermost Court may  
also uphold the lower court's  
ruling. Just because there was a  
technical error, does not mean  
that an individual's rights have  
been violated or that either party  
was denied due process. In filing  
your appeal, it is imperative that  
you include references to the  
rights and freedoms, a valid legal  
argument as to how those rights  
were violated and demonstrate to  
the satisfaction of the court  
that, had the error not occurred,

the result of the lower court trial might have been different.

For example:

Kevin is convicted of murder. He files an appeal, requesting a new trial on the grounds that the prosecutor withheld vital information entitled to him during the discovery phase. He argues that, had he been able to present that evidence, he would have been able to beat the charges. His motion will need to allege (and detail specific instances of) prosecutorial misconduct, inadequate counsel and that there is recently discovered exculpatory evidence to be presented. He may argue that these offenses violated his rights under the Ninth Covenant.

What can happen as a result of an appeal?



If the Uppermost Court affirms the lower court's ruling, nothing happens. The original ruling stands.

The Uppermost Court may uphold a portion of the ruling, in which case only part of the ruling will stand.

The Uppermost Court may overturn the entire ruling, reversing the previous decision entirely.

What cannot happen as a result of an appeal?

An appeal cannot include a criminal complaint within it. For example,

Mr. H appeals the ruling in his case on the basis of judicial misconduct. Mr. H may file an appeal, including all evidence of the alleged misconduct. His brief SHOULD NOT contain any demand for criminal prosecution, removal

or other remedy against the offending judge. This must be brought through separate criminal action. The matter brought before the Uppermost Cort will deal exclusively with the previous ruling. A decision will be made to affirm or overturn that ruling. Any further remedy must be sought in a separate action.

What happens after the Uppermost Cort issues a ruling?

The ruling stands. No further judicial appeals are available. The petitioner may apply for clemency through the King, but all judicial avenues are exhausted.

## **SECTION V: PROVINCIAL COURTS**

Up to this point, we have discussed the function of the Kingdom's courts. But there exist some provincial court systems.

These courts are established by provincial constitutions and may lawfully function provided they do not conflict with the law of the Kingdom.

Some provinces opt to forward all of their cases to the courts of the Kingdom, deciding against maintaining their own judiciary. Other provinces have, or may in the future, establish courts to decide matters of provincial law.

We should remember that provinces, like the Kingdom, have the legal authority to pass their own laws, both civil and criminal. As such, provincial courts are tasked with the interpretation and application

of these laws. The Organic Law requires that all provincial legal systems allow for appeal up to the Uppermost Cort. So, when a case remains at the provincial level, it is pretty self-explanatory. It is handled according to the province's law and judicial precedent.

When a case escalates to the Magistracy or Uppermost Cort, the court is tasked with applying the statutory and organic law while keeping in mind the appropriate provincial law.

For example:

Let's say that Benito passes a law making it illegal to name your dog "Mussolini."

John names his dog "Mussolini" and is charged with violation of this statute. He is convicted by a canton tribunal. He appeals to the High Court of Benito which upholds his conviction and sentence. Pursuant to his organic rights, he files appeal with the Magistracy.

Even though the no dogs named "Mussolini" law does not exist in the Kingdom's statutory or Organic Law, it must be considered within the framework of the provincial legal code.

John's only real legal recourse to the Magistracy is to argue that his provincial trial violated his rights and it is in the best interests of justice to vacate his conviction.

He could make this argument based on:

1. Organic - The Organic Law guarantees a citizen the right to reasonable freedom and enjoyment. He could argue that the government has no right to legislate dog names.
2. Jurisdictional - John could argue that since his dog is not physically located within the province of Benito (i.e., John was assigned to Benito because he lives in Pennsylvania where his dog

resides) that the court of Benito lacks jurisdiction over his dog.

3. Due Process - John can argue that the due process afforded to him in the provincial court system offers less protection and/or did not safeguard his organically guaranteed rights to due process.
4. Judicial Error - John can argue that the law was misapplied.
5. Prosecutorial/Judicial Misconduct - John can argue that his prosecutor or judge acted out of malice and that he otherwise would not have been convicted had it not been for their malpractice.

John cannot reasonably argue:

1. He disagrees with the verdict and wants to keep appealing until someone agrees with him.
2. It's a stupid law.

The case before the magistracy could have a few potential outcomes:

1. The Magistracy can uphold the conviction. John can then appeal to the Uppermost Cort.
2. The Magistracy can vacate the conviction. The Province of Benito can then appeal to the Uppermost Cort.
3. The Magistracy can refuse to hear the case, thereby affirming the provincial court's decision.
4. The Magistracy can refer the case to the Uppermost Cort.

The Magistracy and the Uppermost Cort should take care to do their job without unnecessarily trampling the sovereignty of a constitutionally established provincial court.

It is also worth noting that provincial law may extend the Royal Prerogative of Mercy (Royal Clemency) to the Cunstual. In

such cases, the accused would have recourse to seek clemency or pardon from the Cunstual.



## **The Practice of Attorneys at the Provincial Level**

Provinces have the right to determine who may practice before their courts. Membership in the Royal Talossan Bar is sufficient to practice before the Kingdom's courts. However, a province may maintain their own bar to ensure attorneys are educated in, and compliant with, provincial law. As such, an attorney licensed to practice before the Magistracy and Uppermost Cort may be prohibited from practicing before a provincial court, depending on their specific provincial law on the matter. At the time of this writing, only Benito maintains a provincial bar association, though it is largely inactive.

The Benito system allows admitted attorneys to practice before provincial courts. Practitioners are divided into two classes:

1. Attorneys/Barristers/Lawyers
  - These individuals are

members of the Royal Talossan Bar in addition to the Benito Bar.

2. Enrolled Notaries - These individuals are members of the Benito Bar but are not members of the Royal Talossan Bar.

Thus, attorneys should be aware of specific jurisdictional limitations on their authority. This is especially important as the judicial system develops and more provincial court systems may be formed. A fully licensed attorney from Vuode may require additional training in order to practice in Benito and vice versa.

## **Referenced & Other**

## **Relevant Statutory Laws**

### **40RZ4 - The Habeas Corpus Enforcement Act**

**WHEREAS** The "right to a speedy trial" is guaranteed to all Talossan citizens under the Ninth Covenant of Rights and Freedoms; and

**WHEREAS** This right is not further clarified, nor in any way defined; and

**WHEREAS** the lack of explanation and definition of such an important right may cause that right to be subsequently denied the accused, with or without the intent of said right being denied; and

**WHEREAS** such an important right must be clear and concise in order to ensure the proper enforcement thereof; now

### **THEREFORE**

In the interest of providing the accused with the rights granted to him by the ninth Covenant of Rights and Freedoms, the following rights shall be considered to be inalienable and shall be afforded to all citizens in civilian trials:

- a. The accused must be informed of the charges against him by the Crown within

seven days of said charges being accepted by any national or provincial court.

- b. Such notification must be submitted to the accused in writing, by either an electronic medium such as email, a typed letter, or by a handwritten letter. A copy of every such notice shall be archived in the Royal Archives by the Royal Archivist immediately after he receives a copy of said notice. If the notice is given in the form of a hand-written letter, the Royal Archivist shall make a copy of the letter in an electronic format, such that it may be added to the Royal Archives.
- c. The Crown shall have up to 90 days from the time of notification of the accused in which to prepare its case. If a case is not prepared by the Crown within the allotted time, a mistrial shall be declared and the charge or charges against the accused shall be rendered null and void.
- d. If a case is not prepared within the 90 days limit then the prosecution may request up to an additional 30 days to prepare its case, which shall be granted or denied by the justice assigned to the case. This section takes precedence over section [c]

- e. The decision shall be based on the legitimacy of reasons given by the Crown, in the interests of justice, equality, and neutrality.
- f. If a case is declared null and void then final jeopardy shall apply unless the prosecution is able to provide new evidence against the accused with which to build a case. If a new case is tried then the old evidence may not be used or taken into consideration. A new case must meet the same statute of limitations as described previously.

*Noi urent q'estadra sa:*

**Flip Molinar (MC-FGP)**

**Eovart Grischun (MC-PP, FGP)**

**Xhorxh Asmour (MC-ZPT)**

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## 42RZ5 - The Legal Representation Act

**WHEREAS** we currently have the infrastructure for the designation of attorneys and

**WHEREAS** the functions and responsibilities of attorneys have not been outlined elsewhere and so

**THEREFORE**, we establish the following guidelines for the practice of law within the realm:

1. The practice of law shall be defined as the representation of individuals, corporations and government bodies before the Uppermost Cort, Military or Provincial Court, or any inferior court established by the Ziu; or the professional discussion or advice on matters of a legal nature.
2. Practice before the Uppermost Cort or any inferior National Court established by the Ziu shall be limited to members of the Royal Talossan Bar who maintain their membership in good standing.
3. Practice before Military Courts shall be restricted to members of the Royal Talossan Bar or to any commissioned officer granted waiver by the Minister of Defence to serve as a legal representative, pursuant to Ministry of Defence guidelines.

4. Practice before Provincial Courts shall be governed by Provincial Law.

5. No part of this law shall limit an individual's ability to represent themselves before any court of the realm.

6. Provincial Premiers shall have the authority to represent their Province, in actions brought before a National Court, as a function of their office. This responsibility may be delegated only to a member of the Royal Talossan Bar. The role of the premier, or any Provincial official, within the provincial court system shall be regulated by applicable provincial law.

7. The use of titles such as lawyer, attorney, barrister, solicitor, or councillor/counselor-at-law or any other title reserved by guidelines of the Royal Talossan Bar shall be restricted to those who are licensed to engage in the practice of law within the realm.

8. Individuals who are party to an action brought before a Court of the realm and cannot find suitable legal representation due to a shortage of qualified practitioners of law, conflicts of interest or for personal reasons to be outlined in a petition presented before the court, may apply for a waiver to permit any adult Talossan citizen to represent them before the Court in a specified legal action serving as a legal proxy.

9. Individuals operating under waiver shall not be entitled to present themselves as attorneys, lawyers, barristers, solicitors, or councillor/counselor-at-law, nor shall approval of such waiver imply membership in the Talossan Bar.

10. Petitions for waiver shall be made to the Cort in which the action is to be brought. All waivers shall expire upon the final disposition of the case and shall remain in force through any appeal. Waivers granted by a lower court need not be renewed or reissued if the action is brought before the Uppermost Cort in appeal. Waivers may be terminated by the petitioner or the proxy at any time during court proceedings and shall notify the Court of said termination within 48 hours of its effective date. Waivers may be withdrawn through judicial order in the event of misconduct or inadequate representation.

11. Courts shall grant petitioned waivers unless the designated proxy has been convicted of a felony, has presented themselves unlawfully to be an attorney, lawyer, barrister, solicitor or councillor/counselor of law, has falsely claimed Bar membership or other official standing within the Talossan Bar or has received monetary compensation or other financial consideration in exchange for his/her representational duties or when a suitable member of the bar is available for representation in the matter, unencumbered by conflicts of interest or personal disputes.



*Uréu q'estadra sa:*  
**T.M. Asmourescu, Senator of Benito**

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## **42RZ11 - THE LIMITATIONS ACT**

**WHEREAS** 14RC30-The Statute of Limitations Act defines that the Statute of Limitations shall be no more than three (3) months from the date of the alleged commission of a crime, and

**WHEREAS** given the nature and largely Internet basis of the Kingdom of Talossa, a crime can go months, if not years, without being discovered, and

**WHEREAS** a full and thorough investigation into a crime could take longer than three months, and

**RECOGNISING** that three months is not a suitable nor adequate length of time for Statues of Limitations, and

**NOTING** that a apt period of time should be established that does not prohibit a reasonable investigation nor infringe upon the accused rights, now

**THEREFORE** the Ziu does hereby enact:

### **Section 1:**

- a. The Statute of Limitations on all offences shall be thirty six (36) months, starting from the date the offence is discovered or the 'date of knowledge' of the injured party.
- b. If the potential claimant is not at least 14 years old or did not have a sound mind at the

time of the discovery/knowledge of the offence, time will not run until date of his 14th birthday or he has sound mind.

**Section 2:** This Act shall not apply to:

- a. any action for which a period of limitation is fixed by any other limitation enactment;
- b. fraud upon the court, which for the purpose of this act shall be defined as "to embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication."
- c. war crimes as they are defined in the Charter of the Nürnberg International Military Tribunal of 8 August 1945
- d. crimes against humanity, whether committed in time of war or in time of peace, as defined in the Charter of the Nürnberg International Military Tribunal of 8 August 1945, eviction by armed attack or occupation, inhuman acts resulting from the policy of apartheid, and the crime of genocide as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

**Section 3:** If any person commits a series of illegal acts or commits a continuing crime the period of

limitation shall begin to run from the date of the last act in the series.

**Section 4:** Nothing in this Act shall:

- a. enable any action to be brought which was barred before the operative date by any enactment repealed by this Act
- b. affect any action commenced before the date this act came into force.

**FURTHERMORE** 14RC30-The Statute of Limitations Act is hereby repealed.

*Noi urent q'estadra sa:*

**HM Government**, represented by:

**Litz Cjantscheir Seneschal, MC, RUMP**

**Baron Hooligan Distain, MC, RUMP**